

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DAVID GALLAGHER; SHANNON  
CONRADI; S.L.C., a minor; ROBBIE A  
BYLSMA; ZACH B. KIRBY; JOANNE  
GRIMES; J.A.T., a minor,

Plaintiffs,

v.

THE CITY OF WINLOCK, WASHINGTON;  
WINLOCK CHIEF OF POLICE TERRY  
WILLIAMS; WINLOCK POLICE OFFICER  
BOBBY MUNYAN; WINLOCK POLICE  
OFFICER SAM PATRICK; CITY OF  
TOLEDO, WASHINGTON; TOLEDO  
POLICE OFFICER GERARD THURLOW;  
CITY OF NAPA VINE, WASHINGTON;  
NAPA VINE POLICE OFFICER JAMES  
MCGINTY; NAPA VINE POLICE OFFICER  
KEVIN LEE; CITY OF VADER,  
WASHINGTON; VADER POLICE OFFICER  
JOEL REEDER,

Defendants.

Case No. C05-5478FDB

ORDER GRANTING MOTION OF  
DEFENDANTS CITY OF WINLOCK,  
TERRY WILLIAMS, BOBBY  
MUNYAN, SAM PATRICK CITY OF  
TOLEDO AND GERALD THURLOW  
FOR STAY OF DISCOVERY  
PENDING RULING ON QUALIFIED  
IMMUNITY

Plaintiffs claim that the Defendant police officers violated their rights in an incident that occurred on January 15, 2005. The scheduling order in this case was recently entered on December 2, 2005. The City of Winlock has filed a motion for summary judgment, and Defendants City of

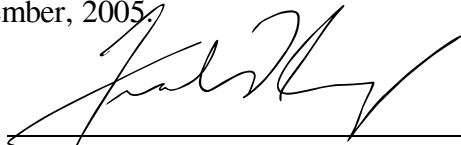
1 Winlock, Terry Williams, Bobby Munyan, Sam Patrick and City of Toledo and Gerald Thurlow are  
2 in the process of preparing motions on behalf of the individual defendants on the issue of qualified  
3 immunity. These defendants seek a stay of discovery pending the Court's ruling on defendants' right  
4 to qualified immunity. Defendants cite, among other authorities, *Harlow v. Fitzgerald*, 457 U.S.  
5 800, 818 (1982) wherein the Supreme Court held that until the threshold issue of immunity is  
6 resolved, discovery should not proceed.

7 Plaintiffs oppose the motion asserting that the Complaint plainly states claims for violations  
8 of clearly established federal law, that if Defendants have any basis for their defense, it will turn on  
9 facts to be fleshed out through discovery, that the municipal defendants are precluded from relying  
10 on the qualified immunity defense, and that there is no reason to believe Defendants have a valid  
11 qualified immunity defense to offer.

12 Plaintiff's opposition is without merit. Ninth Circuit authority is consistent with the Supreme  
13 Court's rulings: in *Little v. City of Seattle*, 863 F.2d 681, 683 (9<sup>th</sup> Cir. 1988) the Ninth Circuit  
14 commented in upholding the discovery stay, "[t]he stay furthers the goal of efficiency for the court  
15 and litigants." The stay will not be indefinite, Defendants anticipate filing the motion shortly, and  
16 Plaintiffs already have Defendants initial disclosures containing all the reports and records that  
17 Defendants have regarding the incident that is the subject of the Complaint. Under the  
18 circumstances, Defendants' motion for a stay must be granted.

19 ACCORDINGLY, IT IS ORDERED: Motion of Defendants City of Winlock, Terry  
20 Williams, Bobby Munya, Sam Patrick, City of Toledo and Gerald Thurlow for a Stay of Discovery  
21 Pending Ruling on Qualified Immunity [Dkt. # 21] is GRANTED.

22 DATED this 20<sup>th</sup> day of December, 2005.

23  
24   
25 FRANKLIN D. BURGESS  
26 UNITED STATES DISTRICT JUDGE